

CABINET FOR HEALTH AND FAMILY SERVICES
Office of Health Policy
(Repealer)

900 KAR 6:121. Repeal of 900 KAR 6:120.

RELATES TO: KRS 216B.010-216B.130, 216B.330-216B.339, 216B.990

STATUTORY AUTHORITY: KRS 194A.030, 194A.050, 216B.040(2)(a)1

NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family Services, Office of Health Policy, has responsibility to administer the Certificate of Need Program. KRS 216B.040(2)(a)2.a requires the cabinet to promulgate an administrative regulation, updated annually, to establish the State Health Plan. 900 KAR 5:020 establishes the State Health Plan, which includes review criteria for the establishment and expansion of specific health services and is a critical element of the certificate of need process for which the cabinet is given responsibility in KRS Chapter 216B. The 2017-2019 State Health Plan does not include review criteria for a pilot program included in prior plans and effectively terminates the program through which hospitals without on-site open heart surgery obtained limited certificate of need authority to perform angioplasty services. Because the program has been terminated, program requirements are no longer necessary and repeal of 900 KAR 6:120 is appropriate. This administrative regulation repeals 900 KAR 6:120.

Section 1. 900 KAR 6:120, Certificate of need angioplasty two (2) year trial program, is hereby repealed.

MOLLY NICOL LEWIS, Acting Director

SCOTT W. BRINKMAN, Acting Secretary

APPROVED BY AGENCY: February 8, 2018

FILED WITH LRC: February 13, 2018 at noon

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall, if requested, be held on March 26, 2018, at 9:00 a.m. in Suites A & B, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky 40621. Individuals interested in attending this hearing shall notify this agency in writing by March 19, 2018, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on this proposed administrative regulation until March 31, 2018. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person. Pursuant to KRS 13A.280(8), copies of the statement of consideration and, if applicable, the amended after comments version of the administrative regulation shall be made available upon request.

CONTACT PERSON: Laura Begin, Legislative and Regulatory Analyst, Office of Legislative and Regulatory Affairs, 275 East Main Street 5 W-A, Frankfort, Kentucky 40621, phone 502-564-6746, fax 502-564-2767, email Laura.Begin@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Persons: Molly Lewis, (502) 564-7905, ext. 3439, molly.lewis@ky.gov; or Laura Begin

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation repeals 900 KAR 6:120.

(b) The necessity of this administrative regulation: This administrative regulation is necessary because the program terminated pursuant to 900 KAR 5:020.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 13A.310 requires an administrative body to repeal an administrative regulation if it is desired that the administrative regulation no longer be effective. The Cabinet for Health and Family Services, Office of Health Policy, has responsibility to administer the Certificate of Need Program. KRS 216B.040(2)(a)2.a requires the cabinet to promulgate an administrative regulation, updated annually, to establish the State Health Plan. 900 KAR 5:020 establishes the State Health Plan, which includes review criteria for the establishment and expansion of specific health services and is a critical element of the certificate of need process for which the cabinet is given responsibility in KRS Chapter 216B. The 2017-2019 State Health Plan does not include review criteria for a pilot program included in prior plans and effectively terminates the program through which hospitals without on-site open heart surgery obtained limited certificate of need authority to perform angioplasty services. Because the program has been terminated, program requirements are no longer necessary and repeal of 900 KAR 6:120 is appropriate. This administrative regulation repeals 900 KAR 6:120.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation assists in the effective administration of the statutes by repealing one (1) administrative regulation because the program it addresses has been terminated.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new repealer administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new repealer administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new repealer administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new repealer administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Four (4) hospitals currently participate in the two (2) year angioplasty trial program and the Office of Health Policy, Division of Certificate of Need will be affected by this administrative regulation.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: There are not any actions that regulated entities will have to take to comply with this administrative regulation as it is a repealer administrative regulation. The provisions in the repealed administrative regulation included program reporting requirements that the current participants will be relieved of satisfying. Participants of the two (2) year angioplasty trial program will be issued a new certificate of need that removed the trial status designation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There are not any costs to complying with this re-

pealer administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The hospitals holding certificates of need to provide angioplasty on a trial basis will be able to provide the services on a permanent basis and the trial status will be removed from their certificates of need. The hospitals will be relieved of the reporting requirements of the trial program. The Office of Health Policy will be relieved of the duty and expense of contracting with an outside expert to review and evaluate the data submitted by the trial participants.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: There are no costs to implementing this administrative regulation either initially or on a continuing basis. Additionally, there are not any costs for repealing existing administrative regulations.

(b) On a continuing basis: There are no costs to implementing this administrative regulation either initially or on a continuing basis. Additionally, there are not any costs for repealing existing administrative regulations.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Sources of funding to be used for the implementation and enforcement of 900 KAR Chapter 6 are state funds of general and agency appropriations and fees collected by the Office of Health Policy.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: An increase in fees or funding is not necessary to implement this repealer.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: This administrative regulation does not establish any fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? Tiering is not applied because this administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? Cabinet for Health and Family Services, Office of Health Policy

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 216B.040 and 13A.310

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None. It will create a savings of about \$10,000 per year in services contracted by the Cabinet for Health and Family Services, Office of Health Policy.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? Nothing

(d) How much will it cost to administer this program for subsequent years? Nothing

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: